



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,853	06/27/2003	Gidi Amir	416/1	7109

24101 7590 09/15/2004

BRUCE E. LILLING
LILLING & LILLING P.C.
P.O. BOX 560
GOLDEN BRIDGE, NY 10526

EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
----------	--------------

3751

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,853

Applicant(s)

AMIR ET AL.

Examiner

Robert M. Fetsuga

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3751

1. The disclosure is objected to because of the following informalities: No brief description of the drawings is present, and no reference to the drawing figures (numerals, etc.) in the detailed description is made.

Appropriate correction is required.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "book" set forth in claims 2 and 7, the "decorations" set forth in claims 4, 9 and 10, and the subject matter set forth in claim 5, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be

Art Unit: 3751

labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "parts" set forth in claim 3, and the subject matter set forth in claim 8, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

4. Claims 1, 2, 9 and 10 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a potty including boards and a seat, does not reasonably provide enablement for only a seat. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

Art Unit: 3751

5. Claims 2 and 7 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claims recite a "book". Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner.

6. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claim recites "the texture of an erasable blackboard." Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner.

7. Claims 1, 3 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3751

Claim 1 recites "suitable to be assembled by a 2 to 6 year old child". This language is considered to be indefinite since the metes and bounds thereof is not ascertainable from the instant disclosure. There does not appear to be any positive limitation associated with this language. Claims 3 and 6 include similarly indefinite language.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1 and 3, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Sundberg.

The Sundberg reference discloses a potty kit comprising: a container 54; and a seat 32, as claimed. The potty kit is "easily and quickly assembled" (col. 1 lns. 26-31) which is

Art Unit: 3751

considered to meet the "suitable to be assembled/constructed by a 2 to 6 year old child" language in the claims.

10. Claim 2, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Sundberg and Bell.

Although the Sundberg potty does not include a book, as claimed, attention is directed to the Bell reference which discloses an analogous potty which further includes a book 80. Therefore, in consideration of Bell, it would have been obvious to one of ordinary skill in the art to associate a book with the Sundberg potty in order to facilitate toilet training.

11. Claims 4, 6 and 8-10, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sundberg and Walter et al.

Although the Sundberg potty does not include decorations, as claimed, attention is directed to the Walter et al. (Walter) reference which discloses an analogous potty which further includes decorations (col. 1 lns. 45-52). Therefore, in consideration of Walter, it would have been obvious to one of ordinary skill in the art to associate decorations with the Sundberg potty in order to facilitate toilet training.

12. Claim 5, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Sundberg and Walter as applied to claim 4 above, and further in view of Soppit.

Art Unit: 3751


Although the Sundberg instructional device does not include a blackboard, as claimed, attention is directed to the Soppit reference which discloses an analogous instructional device which further includes a blackboard (par. 0004 lns. 1-3). Therefore, in consideration of Soppit, it would have been obvious to one of ordinary skill in the art to associate a blackboard with the Sundberg instructional device in order to facilitate toilet training.

13. Claim 7, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Sundberg and Walter as applied to claim 4 above, and further in view of Bell.

To associate a book with the Sundberg potty would have been obvious to one of ordinary skill in the art in consideration of Bell analogous to the discussion supra.

14. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

15. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 703/308-1506 who can be most easily reached Monday through Thursday.



Robert M. Fetsuga
Primary Examiner
Art Unit 3751